



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,997	04/15/2004	Herbert Huettlin	03928- P0008A	9221
24126 7590 01/14/2008 ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 01/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,997

Applicant(s)

HUETTLIN, HERBERT

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 29 is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-13, 16-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) 4, 14, 15 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed October 25, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claim 3 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that it has been rewritten as an independent claim (29) without being canceled.

Applicant states that the office action does not state how Berry meets the claimed limitations. Applicant is mistaken. The 102 rejection indicates that Berry is discussed below (i.e. the 103 rejection).

Applicant argues that Berry does not disclose a common pivot axis perpendicular to an axis of rotation, wherein each pair of pistons rotate in opposite directions about the pivot axis. Applicant is mistaken. The axis of rotation (axis of shafts 3) and the pivot axis (axis of 7) are clearly discussed in column 3 line 8-13 and the rotation of the piston pairs is discussed in column 4 line 34-37, showing that Berry meets all the limitations of the rejected claims.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

Claim 3 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 29. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

Claim is 1, 2, 5-11, 23, 24 and 28, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Berry (see discussion below).

Claim Rejections - 35 USC § 103

Claims 12, 13, 16-20, 26 and 27 are rejected under 35 U.S.C. § 103 as being unpatentable over Berry. Berry discloses an oscillating piston machine comprising 4

Art Unit: 3745

pistons in a housing (1) having a spherical inner wall (2) and rotating together about a rotational axis (axis of shafts 3), passing through the center of the housing; wherein diametrically opposing pistons of the 4 pistons form 2 rigid pairs (A, A'; B, B'), which pivot about a journal (7) forming a common pivot axis perpendicular to the rotational axis; wherein the piston pairs are arranged in criss-cross fashion such that working chambers (26) are formed between opposing working faces of the piston pairs; the housing having 2 semi-spherical side wall sections (4, 6) integrally formed with a support, which supports the journal; wherein each piston has a conical roller (18) with a roller axis inclined relative to the piston working face between 30-50 degrees (e.g. fig 2); wherein each of two forks (28) have two ends sections between the side wall sections and directly connected to respective ones of the side wall sections; but does not disclose that the forks are releasably connected to the side wall sections.

Applicant's admitted prior art (since the Official notice was not seasonably traversed) teaches that it is well known to releasably connect elements of a machine together, for the purpose of ease of manufacturing. It would have been obvious at the time the invention was made to one having ordinary skill in the art to releasably connect the forks of Berry to the side wall sections, for the purpose of ease of manufacturing.

Claim 22 is rejected under 35 U.S.C. § 103 as being unpatentable over Berry in view of Applicant's admitted prior art. Berry discloses all the elements of claim 22, as discussed in the rejection of claim 12 above, including that there is a variable spaces between rear faces of the pistons and the fork; but does not disclose that the variable spaces form admission pressure chambers and/or cooling chambers.

Applicant's admitted prior art teaches, for known oscillating machines, that variable spaces form admission pressure chambers and/or cooling chambers, for the purpose of precompressing combustion air or cooling the piston, respectively (paragraph 42).

Since Berry and Applicant's admitted prior art are both from the same field of endeavor, the purpose disclosed by Applicant's admitted prior art would have been recognized in the pertinent art of Berry. It would have been obvious at the time the invention was made to one having ordinary skill in the art to form the variable spaces of

Art Unit: 3745

Berry into admission pressure chambers and/or cooling chambers, as taught by Applicant's admitted prior art, for the purpose of precompressing combustion air or cooling the piston, respectively.

Conclusion

Claim 29 is allowed.

Claims 4, 14, 15 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571- 272-4821. The examiner can normally be reached on Monday-Thursday from 6:10 AM -3:40 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
January 08, 2008